

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JEFFREY SMITH, *et al.*,

CASE NO. 1:12-CV-648

Plaintiffs,

JUDGE SPIEGEL

v.

MAGISTRATE JUDGE LITKOVITZ

CITY OF CINCINNATI, *et al.*,

**MEMORANDUM OPPOSING
PLAINTIFFS' MOTION FOR
CONTINUANCE**

Defendants.

Plaintiffs have named Connie Gallagher, an employee at Cincinnati Children's Hospital in the caption of this lawsuit. In the Complaint and in hundreds of pages of their filings since the Complaint, Plaintiffs have said not a single word about Connie Gallagher or what she supposedly did to give rise to her being named as a defendant. Nonetheless, Ms. Gallagher must face the reality that any credit check and other searches will show that she is a named defendant in a federal lawsuit. Plaintiffs have abused the system by naming as a defendant someone against whom they never have and never will have a claim.

Plaintiffs have now filed four more papers – including one asking for a continuance until April 19 or some later date when the Sixth Circuit “resolves matters of the Plaintiffs.” None mentions Ms. Gallagher other than in the certificate of service, and the Sixth Circuit “matters” are wholly unrelated to this lawsuit. The motion should be denied. If Plaintiffs have a basis for objecting to Magistrate Litkovitz’s Report and Recommendation of February 13, they should provide it now. Otherwise, the claims against Ms. Gallagher should be dismissed before they do further harm to a wrongly named defendant.

Respectfully submitted,

/s/ **william stuart dornette**

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CERTIFICATE OF SERVICE

This Memorandum in Opposition to Motion for Continuance is being served on all parties who have entered appearances in this case through the Court's ECF system and, in addition, has been served, via regular U.S. Mail, postage-prepaid, this 28th day of February, 2013 upon Jeffrey Smith, 6066 Bayberry Drive, Cincinnati, Ohio 45242, and upon Donetta D. Wiethe, Assistant United States Attorney, 221 E. Fourth Street, Suite 400, Cincinnati, Ohio 45202, on behalf of Defendants United States Patent and Trademark Office, Diane C. Goodwyn, and Alesia Brown.

/s/ **william stuart dornette**

W. Stuart Dornette (0002955)